

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

April 27, 2021

8:03 a.m.

MEMBERS PRESENT

Representative Sara Hannan, Co-Chair
Representative Calvin Schrage, Co-Chair
Representative Harriet Drummond
Representative Ken McCarty
Representative Kevin McCabe

MEMBERS ABSENT

Representative Josiah Patkotak, Vice Chair
Representative Mike Prax

COMMITTEE CALENDAR

HOUSE BILL NO. 16

"An Act relating to the right of first refusal of a volunteer search and rescue group with respect to surplus state property."

- HEARD & HELD

HOUSE BILL NO. 11

"An Act relating to assault in the third and fourth degrees; and relating to reckless endangerment."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 16

SHORT TITLE: SEARCH AND RESCUE SURPLUS STATE PROPERTY

SPONSOR(s): REPRESENTATIVE(s) JOHNSON

02/18/21	(H)	PREFILE RELEASED 1/8/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	CRA, STA
04/27/21	(H)	CRA AT 8:00 AM BARNES 124

BILL: HB 11

SHORT TITLE: DEFENSIVE DISPLAY OF FIREARM

SPONSOR(s): REPRESENTATIVE(s) RAUSCHER

02/18/21	(H)	PREFILE RELEASED 1/8/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	CRA, STA, JUD
04/27/21	(H)	CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

REPRESENTATIVE DELENA JOHNSON

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As prime sponsor, presented HB 16.

SAVAYA BIEBER, Staff

Representative DeLena Johnson

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Explained the changes made under a proposed committee substitute for HB 16 on behalf of Representative Johnson, prime sponsor.

MARK STIGAR, President

Alaska Search and Rescue Association

City & State

POSITION STATEMENT: Answered questions during the hearing on HB 16.

THOR VUE, Chief Procurement Officer

Office of Procurement and Property Management

Department of Administration

Juneau, Alaska

POSITION STATEMENT: Responded to questions during the hearing on HB 16.

LIEUTENANT PAUL FUSSEY, Search and Rescue Coroner

Alaska State Troopers

Department of Public Safety

Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 16.

REPRESENTATIVE GEORGE RAUSCHER

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As prime sponsor, offered the sponsor statement for HB 11.

JESSE LOGAN, Staff

Representative George Rauscher
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Offered a sectional analysis for HB 11 and responded to questions on behalf of Representative Rauscher, prime sponsor.

ACTION NARRATIVE

[8:03:56 AM](#)

CO-CHAIR CALVIN SCHRAGE called the House Community and Regional Affairs Standing Committee meeting to order at 8:03 a.m. Representatives McCarty, Drummond, McCabe, Hannan, and Schrage were present at the call to order.

HB 16-SEARCH AND RESCUE SURPLUS STATE PROPERTY

[8:04:42 AM](#)

CO-CHAIR SCHRAGE announced that the first order of business would be HOUSE BILL NO. 16, "An Act relating to the right of first refusal of a volunteer search and rescue group with respect to surplus state property."

[8:05:09 AM](#)

CO-CHAIR HANNAN moved to adopt the proposed committee substitute (CS) for HB 16, Version 32-LS0128\B, Bannister, 4/19/21, as a work draft.

[8:05:21 AM](#)

CO-CHAIR SCHRAGE objected for the purpose of discussion.

[8:05:32 AM](#)

REPRESENTATIVE DELENA JOHNSON, Alaska State Legislature, as prime sponsor, presented HB 16. She explained that there is similar legislation making its way through the Senate, and the proposed CS was created to conform with the bill in the Senate. She said the CS would broaden the scope of search and rescue groups contained under the proposed legislation. In response to Co-Chairs Hannan and Schrage, she said she thinks the changes that would be made under the proposed CS are good.

[8:08:49 AM](#)

SAVAYA BIEBER, Staff, Representative DeLena Johnson, Alaska State Legislature, explained the changes made under a proposed committee substitute for HB 16 on behalf of Representative Johnson, prime sponsor. She said there are 1,100 search and rescue groups across Alaska that do the following rescue missions: avalanche, flood, grid rescues, lost sailors and hikers, and people trapped in collapsed buildings. The rescue groups receive little to no financial compensation. The proposed legislation would allow these groups to exercise first right to obtain surplus state property that may be necessary to carry out search and rescue missions after state agencies have had the opportunity to buy the property.

MS. BIEBER explained that the Department of Public Safety (DPS) would decide what property is necessary for the rescue groups, and the Department of Administration (DOA) would choose regulations and price. Groups approved by DOA would receive a list of items going up for auction. She offered further details about the auction process, including that the items would be available to the search and rescue groups for 7-14 days before they are made available to the general public. She noted people available for questions.

[8:10:43 AM](#)

The committee took an at-ease from 8:10 a.m. to 8:12 a.m.

[8:12:03 AM](#)

CO-CHAIR SCHRAGE announced that the committee would hear invited testimony.

[8:12:18 AM](#)

MARK STIGAR, President, Alaska Search and Rescue Association, listed his experience in search and rescue, including volunteering with "MAT+SAR Search & Rescue" in the Matanuska-Susitna ("Mat-Su") Valley, training and safety board member, canine handler, and incident commander. He said he retired from running the Alaska Army National Guard Aviation Program, which uses Blackhawk helicopters, and he was involved in hundreds of search and rescue and medivac operations in his 10 years with the guard. He noted that unique to Alaska is that all land search and rescue fall under the Alaska State Troopers, while in other states they fall under county sheriffs.

MR. STIGAR said the Alaska Search and Rescue Association (ASRA) is the Alaska State Trooper's search and rescue first responders, and it operates with little or no funding, other than limited reimbursement from the Alaska State Troopers for fuel, plane tickets, and [costs resulting from] minor equipment damage. Many times ASRA runs the search. To be effective, its volunteers need equipment beyond their personally owned trucks, all-terrain vehicles (ATVs), and boats. He said ASRA was losing its certification for its canines. He explained the process by which a canine works on a boat with humans and can detect human remains under water, but said the person with a boat left the search team. All other expenses are out of pocket or gained through fund-raising. Mr. Stigar said ASRA is looking at HB 16 as a means to gain benefits found in other states, wherein basic equipment is available to conduct searches. He offered to answer questions.

[8:15:21 AM](#)

REPRESENTATIVE MCCABE relayed his experience 30 years ago handling a search dog. He asked whether "govdeals.com" would allow search and rescue volunteers access to federal surplus items, as well as state.

MR. STIGAR responded that he has gone through the process "to get MAT+SAR on that list" and periodically it receives "an e-mail from them." Generally the surplus items available are office equipment.

REPRESENTATIVE JOHNSON suggested someone from DOA could add to Mr. Stigar's response.

[8:17:25 AM](#)

THOR VUE, Chief Procurement Officer, Office of Procurement and Property Management, Department of Administration, confirmed that volunteer rescue groups could get federal surplus items from govdeals.com, and he said to do so would require signing up.

REPRESENTATIVE MCCABE expressed a desire for the legislature to help. He then asked Mr. Stigar whether MAT+SAR has "a higher priority" on the govdeals.com list.

[8:19:24 AM](#)

MR. STIGAR offered his understanding that MAT+SAR is just on the list. He said the group has a point of contact person. He added that MAT+SAR has never tried to obtain anything [from govedeals.com], so he does not know the process.

[8:19:50 AM](#)

REPRESENTATIVE MCCARTY asked whether there was a timeframe under HB 16 by which the search and rescue groups had priority to obtain items before they were offered to the general public.

MS. BIEBER reiterated that the time would be 7-14 days.

[8:20:30 AM](#)

REPRESENTATIVE HANNAN asked Mr. Vue if the search and rescue groups would be acting as state agencies in their acquisition of items through deals.com.

MR. VUE replied that they would not be "acting as state entities at no cost for these properties." The properties would be acquired at fair market value. The first line of transfer of surplus goods would remain interdepartmental; the second line of transfer would be search and rescue organizations; the third tier would be the general public.

CO-CHAIR HANNAN asked how DOA would determine which of the search and rescue entities get a boat, for example, if more than one of them wanted the boat.

MR. VUE speculated there would be an evaluation of the specific needs of each entity, and the department may determine "whether there is the opportunity to acquire the property at a little bit higher cost than what is being listed just to see if there is a way for us to implement that in the most fair manner."

REPRESENTATIVE HANNAN asked what the current process is for state entities vying for the same item. She explained that she wants to ensure that the search and rescue groups that would qualify for surplus items under HB 16 would not be "competing in a cutthroat way for vital resources that they need" while also ensuring DOA is not overburdened in the process.

[8:25:23 AM](#)

MR. VUE answered that in-house, the property is awarded to the agency that asks for it first. For the general public, the

property is awarded to the highest bidder. He said perhaps "it could be some sort of hybrid function for the search and rescue groups."

[8:26:16 AM](#)

REPRESENTATIVE JOHNSON shared that the original bill addressed only the search and rescue organizations that work for the state through the Alaska State Troopers. She then related that "many of these groups will pay out of pocket, so it doesn't take away the need for a grant necessarily, it just makes things available." She said groups such as ones that work with search and rescue dogs are funded fully in other states but not in Alaska, where its members pay their expenses out of pocket. She said she does not think DOA has a process for dispensing of property "pre-public disposal" yet; however, "that is something that we can define as we go."

[8:28:20 AM](#)

REPRESENTATIVE MCCABE speculated that search and rescue groups would have to pay for transport of any item they acquired from state surplus not in their area; therefore, if a boat were available through state surplus and located in King Salmon, he surmised, the only people that would bid on it would be "the people around King Salmon that would be able to get to that boat pretty cheap." He further speculated that the state has certain areas where surplus items are stored. He asked Mr. Vue for comment.

[8:29:43 AM](#)

MR. VUE replied that economics is not the only driver and entities far from the item needed are willing to take the responsibility to transport it.

[8:31:31 AM](#)

CO-CHAIR HANNAN referenced AS 18.60.120, which refers to search and rescue parties and does not distinguish between the various types, and she asked Mr. Stigar to talk about which groups may be included under statute.

[8:32:37 AM](#)

MR. STIGAR responded that the most accurate list of search and rescue groups is maintained by the Alaska State Troopers. He

indicated that [the proposed legislation] would include anyone that is known by the Alaska State Troopers to conduct search and rescue missions.

[8:34:21 AM](#)

REPRESENTATIVE MCCARTY noted there are areas in the state far from any troopers; therefore, he asked for confirmation that [HB 16] would include any organized search and rescue group in Alaska.

MR. STIGAR answered that was his original intent. He offered his understanding that remote areas would follow the same process, wherein information would be spread through the village and then the Alaska State Troopers would be notified.

[8:35:46 AM](#)

CO-CHAIR HANNAN said it appears the groups listed under AS 18.60.120 are those that the Alaska State Troopers can utilize. She questioned whether there is an active list and how many groups there are.

[8:36:27 AM](#)

LIEUTENANT PAUL FUSSEY, Search and Rescue Coroner, Alaska State Troopers, Department of Public Safety, related there are some 501(c)(3) groups that can be deployed across the state, as well as small search and rescue entities in each village across the state that can be deployed to do searches at the request of the Alaska State Troopers.

[8:37:22 AM](#)

REPRESENTATIVE MCCABE offered his understanding that the Department of Natural Resources (DNR) utilizes a voluntary assistance program to provide surplus items to volunteer fire fighters, and "this is sort of separate from that."

[8:38:01 AM](#)

REPRESENTATIVE JOHNSON responded that it seems like an oversight that Alaska's search and rescue groups are paying for search and rescue out of their own pockets; those are the groups targeted under HB 16.

[8:38:47 AM](#)

REPRESENTATIVE DRUMMOND noted the use of the word "obsolete" and asked how, if the state is getting rid of equipment because it is obsolete, that equipment would be useful to search and rescue operations.

REPRESENTATIVE JOHNSON remarked that "one man's trash is another man's treasure" and said the homily illustrates that something that is considered obsolete by the state could be something a local organization could use.

REPRESENTATIVE DRUMMOND noted that search and rescue dogs are expensive and trained for specific purposes. She asked whether the dogs are the personal property of search and rescue volunteers, and she speculated that the volunteers would need to raise funds to acquire such animals.

REPRESENTATIVE JOHNSON responded that these animals are a cost borne by the search and rescue groups as a "labor of love." She said the search dogs she has known were each paired with one human, and they are not "surplus" dogs.

[8:41:48 AM](#)

REPRESENTATIVE MCCABE, having done search and rescue with dogs, proffered that the dog is part of the trainer's family. He said he spent hundreds of hours training a dog named "Toga" from the time she was a pup. He confirmed there would be no surplus in terms of dogs.

[8:42:27 AM](#)

MR. STIGAR added that what got him into search and rescue was a new dog he had and the desire to do more with her than having her be his exercise buddy. He said the trainer/owner bears the cost of vaccinations and potential injuries.

[8:43:05 AM](#)

REPRESENTATIVE DRUMMOND relayed that during her time on the Anchorage School Board, she learned about the police using a dog to search hundreds of lockers for any suspect materials. She noted dogs have a limited time in which they can stay on a scent track. She commented on the emotional nature of having a dog find a body in the water, for example, and she expressed that a conversation about this topic is helpful in educating members of the committee.

[8:44:28 AM](#)

CO-CHAIR HANNAN asked about a short title on page 1, line 6, of the proposed CS, which read as follows:

SHORT TITLE. This Act may be known as the Ellie Mae Act.

[8:44:58 AM](#)

REPRESENTATIVE JOHNSON related her understanding that Ellie Mae was the name of a service dog; she said that language was not part of the original bill.

[8:45:11 AM](#)

CO-CHAIR SCHRAGE removed his objection to the motion to adopt the proposed CS for HB 16, Version 32-LS0128\B, Bannister, 4/19/21, as a work draft. There being no further objection, Version B was before the committee.

[8:45:23 AM](#)

CO-CHAIR SCHRAGE announced that HB 16 was held over.

HB 11-DEFENSIVE DISPLAY OF FIREARM

[8:45:32 AM](#)

CO-CHAIR SCHRAGE announced that the final order of business would be HOUSE BILL NO. 11, "An Act relating to assault in the third and fourth degrees; and relating to reckless endangerment."

[8:45:53 AM](#)

REPRESENTATIVE GEORGE RAUSCHER, Alaska State Legislature, as prime sponsor, offered the sponsor statement for HB 11, which read as follows [original punctuation provided]:

Article 1, Section 19 of the Alaska Constitution, among the declaration of rights enshrines the right of Alaskans to keep and bear arms.

"A well-regulated militia being necessary to the security of a free state, the right of the people to

keep and bear arms shall not be infringed. The individual right to keep and bear arms shall not be denied or infringed by the State or a political subdivision of the State."

House Bill 11 is an effort to preserve these rights, and protect individuals acting in a manner in defense of self, defense of a third party or defense of property and premises, from arrest when defensively displaying a firearm.

Current law allows for police to arrest individuals who display a weapon defensively for third or fourth degree assault, or for reckless endangerment. This bill would exclude the provisions of the above mentioned offenses against a person if the individual displays a weapon in a defensive manner.

The bill continues to define defensive display as follows:

- Openly wearing, carrying or possessing a firearm
- Verbally informing another person of the possession of a firearm
- Holding a firearm in a position that does not point the firearm directly at another person
- Displaying a firearm to dissuade a threatening person
- Warning another person of the availability of a firearm to dissuade a threat by the other person

House Bill 11 will protect the rights of Alaskans from the unnecessary arrests and expense of claiming a justification defense, when they merely displayed a firearm, and did not act in a manner that is beyond definition in the bill.

I urge your support for this bill to protect the rights of Alaskans to bear arms in a defensive manner.

[8:49:00 AM](#)

JESSE LOGAN, Staff, Representative George Rauscher, Alaska State Legislature, offered a sectional analysis for HB 11 on behalf of Representative Rauscher, prime sponsor. The sectional analysis read as follow [original punctuation provided]:

Section 1 Excludes defensive display of a firearm from the violations of third degree assault.

Section 2 Excludes defensive display of a firearm from the violations of fourth degree assault.

Section 3 Excludes defensive display of a firearm from the violations of reckless endangerment.

Section 4 Defines defensive display of a firearm.

Section 5 Defines the applicability of the bill and offenses to only those committed after the effective date.

MR. LOGAN said third degree assault means to recklessly place another person in fear of imminent serious injury by means of a dangerous instrument; it is a Class C felony that carries a penalty of up to five years in prison and up to a \$50,000 fine. He said fourth degree assault is a Class A misdemeanor, which carries with it a fine of up to \$10,000 and up to one year in jail. Reckless endangerment is also a Class A misdemeanor, he noted. He said anyone allowed carry a firearm can carry it opened or concealed. An "open carry" can be seen by others. Regarding concealed carry, Mr. Logan said the question before the committee is: "How do you communicate that to a perceived threat?" He said 19 states allow "permit-less carry" or concealed carry; only 5 of those states have determined "how to communicate that." He indicated that no [states] have defined "brandishing," although there is federal code pertaining to the term. He paraphrased the definition of "brandishing" found in Merriam Websters Dictionary, which read as follows: "to shake or wave (something, such as a weapon) menacingly."

MR. LOGAN directed attention to Section 4 [page 1, line 13, through page 2, line 6], which he said offers a list of what is included under "defensive display of a firearm." He warned that in law, anything not included on the list "is considered to have been excluded on purpose"; therefore, he urged the committee to consider creating a committee substitute that would provide a definition instead of a list.

MR. LOGAN named two scenarios: One is a person at home and the other is a person in public; both perceive a threat. He asked, "How do you communicate to that perceived threat that you have a deadly weapon and you're willing to use it?" He then asked,

"Without that definition of communication, what's the purpose of having [a] concealed weapon?"

[8:52:25 AM](#)

REPRESENTATIVE MCCABE noted that before President Joe Biden was elected, he had talked about taking a shotgun out to his porch and shooting a couple rounds. Representative McCabe said that in Alaska, a person who fires a shotgun from the porch at a person "coming at" the house would be arrested by the Alaska State Troopers for "brandishing and scaring a person." He asked whether HB 11 would "make that legal."

MR. LOGAN answered, "No, I don't think there's a scenario where you fire a weapon in any direction that's going to be okay, except for in defense of a deadly threat." He indicated that [HB 11] "goes into the definitional of ... how do you communicate it?"

REPRESENTATIVE MCCABE remarked that if the person on the porch announced, "I have a shotgun," then that would be considered brandishing under Alaska law. He said the same would apply to someone stepping outside his/her car and saying, "I have a pistol."

[8:54:14 AM](#)

CO-CHAIR HANNAN questioned whether the bill sponsor had heard of situations where an individual was apprehended solely for having a weapon on the porch rather than also being a case of domestic violence, for example, where the gun is being used by the husband to remind the wife to behave. She explained that she is curious whether "we are prosecuting those statements exclusively, in isolation from ... the charge of threat."

REPRESENTATIVE RAUSCHER replied that his office has contacted law enforcement and is "asking for those" but has not received the information, which he said he would provide to the committee once received.

MR. LOGAN, regarding Co-Chair Hannan's example, said he did not think that would be considered defensive. He said he thinks it would be an offensive display of a weapon - a situation he said he thinks HB 11 does not seek to address. He noted that the bill sponsor's office had spoken with the Department of Law (DOL) to ensure that domestic violence cases "are not [in] any way altered with this."

CO-CHAIR HANNAN said she understands, but also understands that no bills change what is in the Constitution of the State of Alaska regarding the right of Alaskans to own legal weapons. She indicated the issue is crafting the distinction between "where's the problem?" and "what's really happening?" She said theoretically Alaska State Troopers could be arresting individuals for saying, "I have a gun." She said she has never heard of that happening, and she has carried and advertised carrying a concealed weapon and permit to carry, both of which must be professed to law enforcement immediately upon getting pulled over. She said she is looking for the problem, not a theoretical problem that may take place in the future. She said in many cases of domestic violence, the threats have not been carried out, which is what makes so many of the cases so challenging.

REPRESENTATIVE RAUSCHER reiterated that information would be forthcoming from DOL.

[8:58:14 AM](#)

REPRESENTATIVE MCCARTY said he knows of cases where people said, "I've got a firearm; back off" and were arrested. He talked about the dialogue as compared to the outcome of a court case.

REPRESENTATIVE RAUSCHER suggested that if what is acceptable and what is not acceptable are defined, then a person does not have to go to court to prove whether or not what he/she did was acceptable.

REPRESENTATIVE MCCARTY distinguished between someone using a firearm to get someone out of the house as compared to someone trespassing on property and the property owner telling the trespasser he/she has a firearm. He said he has heard of cases where "people were arrested" and yet "the perpetrator was not the person on the porch - it's the person who's trespassing."

[9:01:05 AM](#)

MR. LOGAN said he does not have any statistics on "how many times this happened in Alaska" but said there are thousands of cases across the country where someone has had a concealed weapon, showed the weapon to a person harassing them in the next lane, and got arrested. He said "we" have guns, but asked, "How do we dispel a threat without using it?"

[9:01:52 AM](#)

REPRESENTATIVE MCCABE said he has carried a concealed weapon for years and has been an officer of the law. He said, "We are always taught, if you pull your weapon, you have to use it." He opined, "An armed society is a polite society." He said if a person instigates verbal conflict and must pull his/her gun and take action, then that person is at fault. He countered that sometimes a person will "go after" a polite person, and the polite person cannot let the offensive person know that he/she has a weapon without risking a felony or Class A misdemeanor for brandishing a weapon. Being able to announce the presence of a gun to deescalate a situation may fill "a gap," he suggested. He indicated that [HB 11] makes sense to him. He said people might abuse it, but the proposed bill is "kind of a hole that has been needed for many, many years."

[9:04:22 AM](#)

CO-CHAIR SCHRAGE asked for distinction between verbally informing another person of the possession of a firearm and warning another person of the availability of a firearm to dissuade a threat by the other person.

MR. LOGAN suggested changes may be needed to the language of the CS and advised the language be made specific.

CO-CHAIR SCHRAGE said he thinks that how a person relates the existence of a fire arm is important. He explained, "I think informing someone that you have a gun may not cause the same issues as informing someone and conveying an intent to utilize that gun, and so I think there's some nuance to be worked out in this bill."

[HB 11 was held over.]

[9:07:22 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:07 a.m.